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ABSTRACT

Intended for curriculum supervisors, directors, or specialists, the paper considers some general long-term implications of Public Law 94-142, the Education of All Handicapped Children Act of 1975, and the relation of those implications to curriculum. Among areas discussed are federal control, parental factors, perspectives of administrative staff relationships, and functional linkage potentials. Noted are some suggested actions to be taken by the curriculum specialist in view of the implications of P. L. 94-142. (IM)

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P.L. 94-142

LONG-TERM IMPLICATIONS:

THE ART OF CRYSTAL BALLING

PAPER PRESENTED
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SECTION FOUR

P.L. 94 - 142
LONG-TERM IMPLICATIONS:
THE ART OF CRYSTAL BALLING

Gerald Griffin

Anthropologists who have studied the customs of man's early forebearers indicate that from earliest time mankind has been concerned with the future. Much of the ancient social rituals, myths and religious practice was based on a belief in an after-life. From the Greek's Oracle of Delphi to present day clairvoyants and fortune tellers, those who had, or pretended to have, knowledge of future events have been held in awe. Modern man, perhaps more sophisticated than his ancient prototypes, has attempted to eliminate the awesomeness of prediction. His attempts to provide a rational perspective has resulted in the developing science of futurology. His rationality has also told him that having a better grasp of the future would enable him to accomplish the tasks of today.

Futurology is not an exact science. As a consequence many in society would dismiss it as an irrelevant to making present day decisions. As a science, futurology may run into barriers because a fact oriented society is intolerant of error (Adelson, 1976).

If man can, however, reach a point that will allow him to consider both past and present states, he may be able to better assess where he is or whants to go, the methods for getting there and the alternatives necessary to accomplish his goals. This process of looking at the future while simultaneously assessing the now has been called by many names (e.g. projection, prediction). In this text the author has arbitrarily chosen to use the term implications.

It is with this perspective that Public Lw 94-142, "The Education of All Handicapped Children Act of 1975," will be reviewed. The purpose here is to consider some general long-term implications of P.L. 94-142. In the concluding portion of the text an effort will be made to relate those implications to curriculum. The long-range implications that will be considered in the text are: federal control; parental factors; perspectives of administrative-staff relationships; and, functional linkage potentials. These areas were chosen from a host of potentials for two reasons:they highlight basic questions and criticisms expressed about the law and they seemed basic aspects of the law.

It is perhaps obvious that the divisions utilized in the text may overlap. Hopefully, this will occur only occasionally. Further, it is hoped that the format used here will allow for clear delineation of key implications of P.L. 94-142.

FEDERAL CONTROL

The passage of P. L. 94-142 on November 29, 1975 stimulated semi-dormant debate on the right of the federal government to impose its will on the states. It has been generally assumed that the responsibility for education is a state responsibility, implied in the Tenth Amendment of the Constitution. Many educators,as private citizens, have argued that federal involvement in education is contrary to constitutional intent and attempts to circumvent state, and consequently local control of education. Constitutional scholars have espoused various theories in an effort to end the debate. Thus, there have been varying interpretations of the "general welfare" clause and "police powers" clauses (Lu, 1965), yet, there has been no resolution to these philosophic disagreements.

Educators view federal involvement in education as more than philosophic debate. With the specific procedures outlined in P.L. 94-142 (i.e. procedures of individual educational program planning, appeal, and due process), educators have felt federal involvement has become federal control of education. More and more educators find suspect the analogy that Uncle Sam, like all good bankers, has some strings attached to his money. They are concerned that they will be professionally entangled in federal strings.

The distinction between involvement and control is not just a matter of semantics. Federal involvement may generally be thought of as those activities in which the government engages (e.g providing aid or assistance) which benefits society. For example, the Land Ordinances

of 1785 and 1787 reserved land for maintaining public schools and established, without federal influence, higher education institutions. More recent examples might be the legislation of the 1950s that provided aid to districts for facilities construction and student aid in federally affected areas, P.L. 815 and P.L. 874. On the other hand, direct federal influence may be termed control, i.e. the degree to which the federal government influences educational programs.

A number of persons have suggested other ways of classifying federal influence (i.e. control) of education (Reller,1940;Sears,1950; Lu, 1965). These classifications can be collapsed into two categories, federal influence which is informal control or federal influence which is formal control. By informal control is meant that the federal influence is primarily administrative. That is, there are federally established methods and conditions for receiving aid which only indirectly influence educational programs. Formal control, is still administrative but the conditions for receiving aid deal with curriculum, teachers and teaching methods. The administrative specificity of conditions directly influences the educational program.

Tracing federal legislation and aid programs in behalf of education indicates a continuous trend toward more federal control. From the Civil War onward formal control becomes more and more evident. Since the Morrill Act(1862) much of federal aid was directed toward specific educational programs. The Morrill Act established the land-grant colleges to promote agriculture and technology. During World War I, the Smith-Hughes Act(1917) promoted vocational education;

the Smith-Sears Act(1918), vocational rehabilitation for veterans. The World War II Serviceman's Readjustment Act, commonly known as the G.I. Bill, provided for veteran education. Sputnik and feelings of scientific inferiority resulted in the 1958 National Defense Act. The Higher Education Facilities Act of 1963 and the Economic Opportunity Act of 1964 influenced both higher education and secondary school curricula, as the Elementary Secondary Act of 1965 influenced elemantary programs. In addition to a number of categorical special education personnel acts, the Education Professions Development Act(1967) provided $1.1 billion in training programs for educational personnel. And finally, P.L. 94-142 of 1975, which specifies not only which handicapped population will be served but also the priority of service; the components and participants in implementing the act; state and local tasks and responsibilities; services to be included and excluded (by implication); appeal procedures and non-compliance penalties; and, timetable and percentage of aid. In essence, P.L. 94-142 is an excellent example of direct federal influence on the states, their communities and schools, and students, parents, programs and curricula.

If formal federal control is the developing trends, what then are implications of this control? One implication is that the procedural specificity evident in P.L. 94-142 may be a model for future legislation. For example, approval is pending on proposed rules for amending the Rehabilitation Act of 1974, specifically Section 504 of that Act. The proposed addition of Part 84 to Section 504 would prohibit discrimination against handicapped individuals in federally

assisted programs solely on the basis of handicap (FR,1976). Review of the proposed rules indicat that there are major differences between Part 84 and P.L. 94-142. They are, however, both comprehensive in scope and procedurally specific.

Another implication is that institutions of higher education may need to develop more flexible and/or adaptive pre-service and in-service programs. P.L. 94-142 requires a major shift of emphasis from typical pre-service training programs. Higher education institutions that have not addressed severely and multiply handicapped priority areas may have trouble receiving assistance. State and local educational agencies (SEA,LEA) will also need to develop and reassess existing in-service training programs to effectively implement P.L. 94-142. As the necessity for assessing personnel needs at the higher education, SEA and LEA levels becomes more pronounced, these groups will need to communication more to alleviate duplication of efforts. Cooperative manpower planning then becomes a third implication of the law.

A fourth and related implication is the need for developing alternative training approaches. Generally, LEA and SEA in-service activities have been infrequent and do not adequately provide either regular or special educators with the knowledge and skills to sufficiently meet various program needs. Partly, this may be due to time, financial and resource restraints; partly, insufficientprofessional resource linkages with higher education and other agencies. As personnel needs change, it may be expected that professional development linkages will occur. In 1976 the federal government stimulated consideration of alternative training

mechanisms through authorized legislation amending P. L. 94-482, the Higher Education Act of 1965. Part B of that Law, entitled "Teacher Training Programs," would establish teacher training centers on a local, regional and/or higher education level. If enacted,these training centers cover a wide area and decrease the training problems associated with rural and sparsely populated locales.

In conclusion, one long range implication of P.L. 94-142 is increased federal control, which will be comprehensive in nature and procedurally specific. Expanded control may necessitate program adaption and cooperative efforts among agencies. In addition, such federal control may stimulate subsequent legislation to provide alternative approaches to meeting professional needs. In the long run there will probably be more direct influence over staff and curriculum.

PARENTAL FACTORS

In the past, when dialogue was held between educational professionals and parents, much of that discussion was advisory. While many parents tried to implement advice received from educators frequently the parental advice was lost in the shuffle of professional opinion and expediency. Today, in this era of advocacy, parents have been critical of this advisory status (Browder,1971;Stevens, 1975;Baskin, 1975). In many school districts across the country parent militancy for school accountability and their own participation in decision making has sharply increased since the mid-1960s. The

passage of P. L. 94-142 is largely a result of parent advocacy.

In loco parentis. Quite a bit of the rhetoric favoring the "Education of All Handicapped Act" is similar to that heard with the passage of other rights acts (ie. Title Ix, Title Vi, Title V). It has been said that for each right there is equivalent responsibility. P.L. 94-142 may precipitate a shift of responsibilities back to the parent.

Society has in fact expected its parent-members to assume responsibility for the general health, safety and welfare needs of their offsprings. Nevertheless, schools in general have assumed many aspects of that parental responsibility,e.g. breakfast and lunch programs, inoculations and other health services. The assumption of these responsibilities is related to the inability or neglect of some parents to meet the needs of their children. In addition, schools assumed these responsibilities under the established legal principle of in loco parentis, i.e. in place of the parent (Remmlein, 1950). The in loco parentis doctrine has been generally accepted regarding matters of discipline, corporal punishment, liability and other teacher related responsibilities. The doctrine has not included teacher responsibility for more and religious training nor medical or psychiatric treatment without parental permission (Remmlein,1950; Garber, 1969). It may also be further limited by statute and LEA regulations. Nevertheless, parental non-involvement in school, expansion of what education includes and assumed professional responsibility has made in loco parentis a basic tool in completing the educator's charge--meeting the needs of students.

An immediate and perhaps continous implication of P.L. 94-142 may be to further restrict the application of the in loco parentis principle. In effect it places the respor ibility for the education of an individual handicapped child back in the hands of the individual parent. Thus, it shifts the parent's role from that of educational advisor. Educators, in turn, assume this advisor stance. In lieu of existing parental demands for involvement in decision making, it can be expected that nonhandicapped parents will revel at these role shifts.

Parent Coalitions. In defense of educators it can be said that they seldom wanted to assume more than the academic instructional responsibilities. More than one teacher has been frustrated with collecting lunch money, inoculation forms, medical forms, etc. Nevertheless, parents were also frustrated by the "red tape" of the expanding educacracy (education bureaucracy).

With the passage of P.L. 94-142 some parental advocacy groups have been able to measure their success. Special education parent coalitions members now not only participate in diagnostic and placement decisions, but also have access to appeal mechanisms if they disagree with the experts. The direct special coaltion pressure previously directed at individual schools and districts seems to have shifted gears. Evidence of this is reported in Closer Look (Winter-Spring, 1977), a publication of the National Information Center for Handicapped. It was reported that five coalitions have received federal grants to develop parent information centers,

which are staffed by parents. The centers are located in Massachusetts, Illinois, Ohio, and Indiana. Their purpose is to assist in answering inquiries about the needs of handicapped children and assist in solving problems faced regarding a child's education (pp.2,7). Elsewhere in the publication, eight steps are outlined so parents will know what they need to do to make the law work (pp.7,8).

If such centers expand with or without federal assistance, educators will be collaborating with an extremely knowledgeable parent of a handicapped child. The success of special coalitions and these information services will no doubt stimulate similar activity among parents of nonhandicapped students. As a result, educational decisions which have been frequently sacrosanct will be exposed in the sunlight by a collaborative and informed public.

PERSPECTIVES OF ADMINISTRATIVE-STAFF RELATIONS

Many of the same factors that influenced the development of parental coalitions (e.g. disengranchisement with the educacracy)has also been the basis for existing staff-administrator relations. Two types of relations can now be distinquished--one is adversary and the other collaborative. The adversary relationship is typified by the labor-relation's collective bargaining model; collaborative relations, by the team approach (e.g. IFP planning conference). Seldom has either approach existed totally without the other. P.L. 94-142, however, may have a significant impact on the status of these approaches in the future. Some implications are generated from

each approach.

Adversary Relationships. Generally, the deleterious effects of an expanding educational bureaucracy were not felt until the 60s. Some of these effects have been noted by others: lack of decentralized decision making and insufficient administrative communication to remediate professional, personal or instructional problems (Bennis, 1961;Dykes,1964; Allen,1958;Koontz and O'Donnell, 1964). By the 70s, there was a tremendous increase in the number of teachers organized into welfare committees, associations and unions. Among the many issues to be resolved were career development, class size, resource needs, salary, etc. In many localities a great number of these issues have been included in district-teacher organization contracts after extensive negotiation. As many contracts extend only one, two or three years most negotiated resolutions have a relatively short life. P. L. 94-142 may impact on the terms of present and future contractual agreements.

There are a number of requirements for a contractual agreements to be considered valid: there must be an offer, a proposal to engage in some activity in return for a promise from another; acceptance, mutual consent of contracting parties; consideration, some value being exchanged [i.e. promise to pay for certain act(s)]; capacity of parties to contract (neither a minor or mentally ill); legal subject matter, parties cannot contract for something illegal;and, written (if required by law) to ascertain contractual conditions (Neubert and Withiam, 1975; Farmer Associates, 1969;Remmlein, 1950). These requirements valid the negotiated school district contract. District contracts are a form of unilateral contract, i.e. one party receives something

(money) from another for specific performance(s), i.e. teaching.

It may be necessary to reevaluate many existing district contracts as a consequence of P.L. 142 and developing legislation. For example, the requirement of offer is revocable if a third party intervenes(e.g. a government statute) making the offeree's (teacher's organization) performance illegal (Neubert and Withiam, 1975; Farmer Associates, 1969). Some teachers' contracts permit teachers the right to determine which students will be placed or remain in their classes. While generally, such rejections relate to discipline problems, it is not unusual that they relate to learning or suspected emotional problems. Where these rejection provisions exists, they may also negate the legal subject matter requirement of valid contracts. Students with learning and emotional problems may in fact be handicapped. Denying them placement (by whatever basis previously determined to be an appropriate placement) may constitute an illegal denial of rights to handicapped individuals as guaranteed by P. L. 94-142.

Fortunately, P. L. 94-142 mandates will not be in force until September 1, 1978. Districts and teacher organizations will have time to review existing or pending contracts to assess their legality in terms of P.L. 94-142. It is feasible that Part 84 of Section 504 could be passed into law and require immediate compliance (FR,1976). Since many of the Part 84 provisions are consistent with P.L. 94-142, the legality of some existing district contracts may be still in jeapardy.

It is conceivable that the contractual problems discussed abouve

may offer advantages to either administration or staff. P.L. 94-142, however, is very explicit that neither group is it's primary concern. The education of the handicapped child supercedes professional, procedural or resource concerns. These relate only as they may effect the implementation of the law. Since P.L. 94-142 does emphasize the handicapped child, it may be somewhat at odds with administrative and staff negotiation stances, which emphasize either administrative prorogatives or staff ones. By focusing on meeting the needs of the handicapped child, implementation of P.L. 94-142 dictums may narrow the focus of what is negotiable, and so doing, both professional camps may find less need of their particular adversary posture.

Collaborative Relationships. The very nature of the adversary relationship described above generated more education related dialogue between/among administrators and staffs than any time previously. While not specifically a collegial atmosphere, it has changed many aspects of management thinking that has been guided by administrative literature of the 50s. The centralized authority, specialized functions and hierarchial principles of Weber and Fayol were brought into question. It has been realized that no one group had all the educational answers. It has been further realized that problem resolution is not a result of well defined job description or organizational charts. Developments such as teacher instructional teams and collaborative administration has made administrator-teacher collaboration seem feasible.

Within this framework, P.L. 94-142 may be effective in cementing collaborative approaches. The Act attempts to assure equal opportunities

for all handicapped students, with a focus on the individual. Administrators and teachers have been oriented to student groups (i.e. grade level, achievement level). Thus, P.L. 94-142 causes a shift in orientation. This shift in orientation may be transferable to professionals also. That is, they may stop relating to each other as groups, with well defined role expectations and normative behaviors. The IEP planning process may be an excellent vehicle for striping away that which is unessential to meeting student needs. The IEP planning mechanisms emphasize expertise not seniority, status or credential. It respects the unique contributions, the perspectives, that each team member can provide to facilitate the needs of the individual child.

In some cases there is anxiety when asked to be an expert at home. Often this anxiety is spawned by the frustration of insufficient knowledge--in this case, knowledge of the exceptional child. One derivative of the IEP process will be that adminstrators, regular and special teachers, and support personnel will need to develop new perspectives, skills and techniques to successfully integrate the exceptional child into the regular classroom. It might be feasible to expect that preceding an IEP session, an inter-school consultative session will be conducted similar to medical consultations which precede operations. The key activities of both consultation situations is not what should be cut out, but gather, the facts,presented in a way to determine what techniques and approaches most are efficient in problem resolution.

FUNCTIONAL LINKAGE POTENTIALS

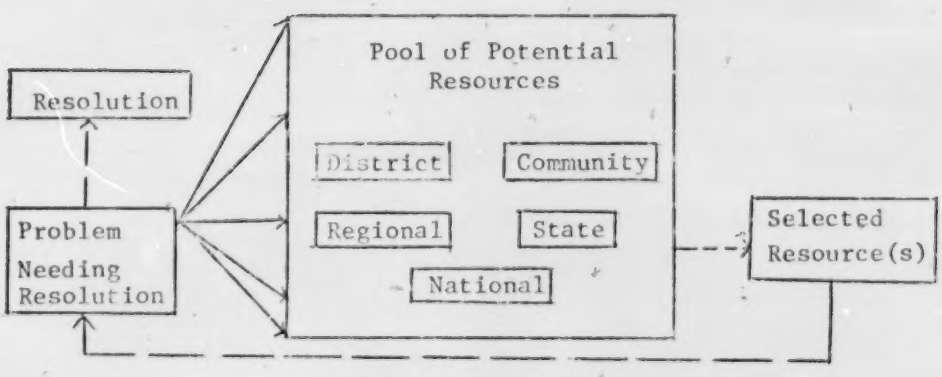
Functional linkages are mechanisms used to increase the potential of successfully meeting the needs of exceptional children. "Linkage," as considered here, is a network, consisting of local, regional,state and national components. A key aspect of the network is what has been called, service delivery system. The concept of linkage, however, is broader than service delivery.

Dispersion Effect. Service delivery systems radiate outward from a specific problem (i.e. identification, diagnosis, etc.) and specific service resources are tapped to resolve the problem. By its nature service delivery is a problem oriented system. In addition, these systems are multi-discipline service devices,i.e. as applied to educational problems, they disperse the educational function beyond the paramenters of a school or district. Thus, the dispersion effect.

In Fig. 1 this dispersion effect is conceptualized:

Figure 1

Dispersion Effects
of Delivery System Model



Typical resolution of student educational problems have relied on district and community resources (i.e. resource teacher, Family Services). Generally, the selected resource performs a specific service. For example, the Salvation Army provides food or clothing to an indigent student. Once the specific service has been completed the relationship ends. In Fig. 1 the tentative, intermittant nature of this service relationship is depicted by broken line. Additionally, the provided service is remedial in nature.

In the past, the dispersion effect has been perhaps more pronounced in dealing with handicapped students, especially in cases of severly and multiply handicapped. Many of these students have been placed in residential facilities or state hosipitals. The relationship between these regional or state units was continous in nature. Districts frequently conducted the initial identification and assessment and then recommended placement. Because appropriate resources were not available in the district, district monies could be used to defray the expenses of residential placement.

In summary, service delivery mechanisms have been characteristicly problem oriented and remedial in nature. The service agency's relationship with school districts were primarily tentative.

Linkage Network. P.L. 94-142 established service delivery needs beyond those exemplified in Fig. 1, necessitating expansion of that approach. For example, in addition to remedial functions, P.L. 94-142 implies an total organism approach, which can be interpreted to mean, when possible, not only early identification but prevention as well. The law has key tasks to be accomplished in compliance with its mandates:

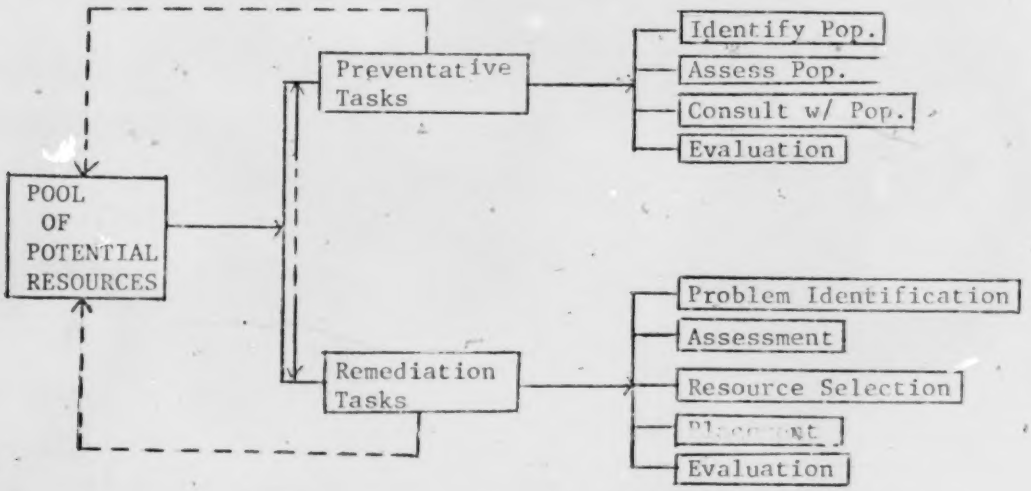
identification, assessment, placement and evaluation. The responsibility for these areas is delegated to the states. Practically, though each school district will need to develop a consistent means for assisting states with documentation of compliance. Since P.L. 94-142 has no termination date a continous resource system is imperative.

In addition, complying with the eligibility timetable(Section 612 (2)b) would be difficult in most communities. Few, if any, institution's have the resources necessary to service this broad an age sprectrum. Few districts are in such good financial shape to hire all the needed personnel to accomodate all the related services (Section 602,17). While there are peak periods (e.g. before and at the end of each school year), previously unidentified and undiagnosed individuals will swell existing populations. Thus, a linkage system seems a valid approach.

In Fig.2, an effort has been made to conceptualize the linkage network:

Figure 2

Linkage Network



In the linkage system network, the potential resource pool has two task,prevention and remediation. Preventative tasks involve a broader prespective than that suggest by a service delivery system. Preventative tasks involve four functions which are a process that each individual resource completes to meet their unique needs, as well as, generalizable to other resource units (Note broken line back to pool). For example, a community based day care center may develop identification procedures,that would assist district schools in anticipating specific handicapped impact. It is understood that each task unit may be operating one or all of its functions. Equally significant, is that each task area may provide direction or assistance to the other. This is usually an intermittant process,yet occurs rather frequently, thus the partially broken line. It should be also noted that the remediation process here described is what was termed a service delivery model (Fig.1).

Thus far, potential resources have been defined by institutional, area and political classifications. Specific service personnel, independent of one of these units are also potential resources. For example, the school physician, who has primarily used by schools in a preventiative capacity (i.e. medical examinations), may provide inevaluable service in evaluating and diagnostics of a handicapped child who seems to be regressing since placement . Psychological and social agencies can provide information that will assist a school social worker in developing a case history of the child environment, in and out of school. Potentially both individuals and agencies can act as consultants, as well as, third party evaluators

to assist parents in the appeal processes of P.L. 94-142. Local areas lacking individual or institutional resources in their immediate area may look to the regional, state and national levels.

In summary, it is obvious perhaps that both preventive and linkage devices can be used to provide service to the exceptional child. Once in place, however, such a permenant and continous network will be useful in meeting the needs of the nonhandicapped child.

CONCLUDING COMMENTS

In the preceding pages, an effort has been made to consider potential ramifications of P.L. 94-142. The intent of this concluding part to focus those long-range projections for an individual in the role of curriculum supervisor, director, or specialist. In some cases suggested action is offered, these, as the preceding comments, viewed in terms of their applicability to the individual cases. As a result some items will be carried away with you (or you carried away with them); others, discarded after this initial reading. Here they are!

1. If as one might expect that there is a trend toward more federal control of education through procedural specificity, the curriculum person will need to keep abreast of pending legislation. To maintain a viable curriculum program, it may be necessary to take proponent stances on some legislation and opponent stances on other. You in your school district will be asked to modify a program or eliminate one in an effort to accomodate new legislation. It's just good planning to anticipate which brick bats are going to be thrown, how to deal with them, or start typing the resume.

how to deal with them, or start typing the resume.

2. How do you find out what legislation is pending, you ask? There are a number of potential sources. Most congressmen maintain a district office. By contacting his assistent periodically and asking about educational legislation, you may be remembered as the person most interested about education; get you name or their mailing lists and as a constituent service provide you with up-dated information. Professional educational organizations, teacher and supervisory are getting more involved in educations. Some are developing communication and lobbying networks in addition to informational letters. As evidenced by the earlier consideration of parent coalitions, they too are getting very knowledgeable about education. If such activity exist in your area, get to know them. Short of all that, your district may already be subscribing to the federal register or congressional monitor. Find out and periodically

(NOTE: No, I'm not intending to make you a politico or lobbyist. It's just that more and more those state statutes and federal legislation have direct impact on your ability to do your job.)

3. It is very difficult to generalize about the personnel needs of a given district. You and the personnel person in your district know what kinds of staff demands or surpluses exist. Teachers,how-ever, can best tell what specific weaknesses they have, what skills are needed. Periodic surveying of those teachers can not only tell you what inservice is needed but also, if you must use district resources, which teachers have the skills that can be developed in others.

4. In the near future, with efforts to implement P.L. 94-142, you the district curriculum expert may have to justify present curriculum activites. As parents and other groups become more knowledgeable their questions become more specific. To provide the answers to questions regarding available local resources or advice or to explain the use of a material test instrument, may require brushing up in some cases; in others, it may mean addition courses (e.g. pre-school; exceptional child; pschometrics).

5. Frequently districts have the superintendent or personnel director (assistant superintendent) on the negotiating team. The nature of developing legislation makes negotiated decisions that effect the instructional program extremely crucial. Because you are the resident expert on curriculum you be asked to provide more than statistical data on the state of the curriculum. The curriculum director in conjunction with the district finance officer may develop a scheme for developing the cost-effectiveness and cost-benefit of new programs, changed curriculum activities which impact on various student groups (e.g. handicapped, minority, etc.). Data of that sort in relation to the integration of handicapped into regular classes is scare and sorely needed.

As a final comment it will be remembered that we began this this presentation with a consideration of the future. From the futurist's perspective many potentiality exist for the developing role of a curriculum person. While no one can provide you with a blueprint of the future, in an effort to swivel our focus between the now, as represented by P.L. 94-142, and the then, as represented

by curriculum programs of individualization, it is clear that the course selection, textbook adoption tasks will assume a priority of focus. Perhaps more significantly, the role of curriculum person will undoubtedly extend before the immediate confines of a local district. It is not inconceivable that curriculum persons will need to be as knowledgeable of the theory of legislation and public relations as they are about the theories of learning. In a society with developing complexities, interdisciplinary teams may abound. The role of curricular person may necessity laisons far beyond that of an education sphere. It is this future that P.L. 94-142 seems to have ushered in.

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